## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS MIDLAND-ODESSA DIVISION

FINALROD IP, LLC, R2R AND D,	§	
LLC,	§	
Plaintiffs/Counter-Defendants	§	MO-15-CV-00097-ADA
•	§	
-V-	§	
	§	
JOHN CRANE, INC., JOHN CRANE	§	
PRODUCTION SOLUTIONS, INC.,	§	
ENDURANCE LIFT SOLUTIONS	§	
INC.,	§	
Defendants/Counter-Plaintiffs	Ş	
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## ORDER DENYING AND GRANTING-IN-PART AND DENYING-IN-PART MOTIONS FOR PARTIAL SUMMARY JUDGMENT

Before the Court are the following five motions for summary judgment:

- 1) Plaintiffs/Counter-Defendants' (hereinafter "Finalrod") motion for partial summary judgment of non-infringement of U.S. Patent No. 6,193,431. ECF No. 286.
- 2) Defendants/Counter-Plaintiffs' (hereinafter "Crane") motion for summary judgment that the accused Series 300 devices do not infringe U.S. Patent Nos. 9,045,951 and 9,181,757. ECF No. 291.
- 3) Finalrod's motion for partial summary judgment of no indefiniteness, no lack of written description, and no lack of enablement with respect to the '951 and '757 Patents. ECF No. 295.
- 4) Crane's motion for summary judgment of non-infringement of the '757 Patent. ECF No. 302.
- 5) Finalrod's motion for partial summary judgment of no anticipation and nonobviousness of the '951 and '757 Patents, and motion to strike the alleged TRC end fitting as prior art. ECF No. 304

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The Court scheduled a hearing on February 21, 2020 for these motions and five motions

to strike the opinions and testimony of various experts.

After carefully reviewing the motions, and the corresponding responses and replies, the

Court **DENIES** the first, second, fourth, and fifth motions because the non-movant has raised at

least one genuine issue of material fact.

For the third motion (Finalrod's motion for partial summary judgment of no

indefiniteness, no lack of written description, and no lack of enablement with respect to the '951

and '757 Patents), the Court GRANTS-IN-PART and DENIES-IN-PART that motion. More

specifically, the Court GRANTS Finalrod's motion with respect to no indefiniteness because

Defendants did not timely raise indefiniteness as an issue during claim construction, as the Court

described in an earlier summary judgment motion. ECF No. 264 at 3 ("The Federal Circuit holds

that an accused infringer waives any argument with respect to the construction of a claim term

when they fail to raise that issue during the claim construction phase of a patent infringement

action."). But the Court DENIES Finalrod's motion with respect to lack of enablement and

written description because the non-movant has raised at least one genuine issue of material fact.

**SIGNED** this 18th day of February, 2020.

ALAN D ALBRIGHT

UNITED STATES DISTRICT JUDGE